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/Karen Gibson/
Karen Gibson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Matthew D. FUCHS et al.

Application No.: 09/493,517

Confirmation No.: 2359

Filed: 28 January 2000

Title: **SYSTEM AND METHOD FOR
SCHEMA EVOLUTION IN AN
E-COMMERCE NETWORK**

Group Art Unit: 2176

Examiner: Maikhhanh NGUYEN

CUSTOMER NO. 22470

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF SUBSTANCE OF INTERVIEW

Examiners:

Applicants appreciate the opportunity to talk to Examiner Doug Hutton this morning, regarding the legal position expressed in the Advisory Action of February 9, 2009. This document summarizes the interview.

Prior to the interview, we exchanged voice mails regarding the legal effect of claiming priority to the reference on which Examiner Nguyen relied as the basis for a section 102(e) rejection. Examiner Hutton's view in the voice mail messages was that an amendment to the specification could not be made after final unless good cause was shown. However, this did not address the impact of claiming priority.

When we talked, we discussed the legal effect of claiming priority to the cited reference. Our position was that claiming priority to the reference relied on would

automatically remove the reference as a basis for rejection. After some discussion, we understood Examiner Hutton to accept our position.

We agreed that counsel could advise his client that, upon filing of an RCE, entry of the amendment to add a CIP priority claim would remove Meltzer as a reference and as a basis for rejection.

We understand that the application will still be subject to a supplemental search, after an RCE. The Examiner understands that there already have been several office actions in this case and multiple searches already performed. It is our position that the best art should already have been cited. As the art of record has been overcome, the case should be in condition for allowance.

No particular claims were discussed. The Meltzer reference was discussed only in the context of the priority claim, not for its substance.

The undersigned can ordinarily be reached at his office at (650) 712-0340 from 8:30 a.m. to 5:30 p.m. PST, Monday through Friday, and can be reached at his cell phone at (415) 902-6112 most other times.

Fee Authorization. The Commissioner is hereby authorized to charge any additional fees determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (OIN 1012-1).

Respectfully submitted,

Dated: February 25, 2009

/Ernest J. Beffel, Jr./
Ernest J. Beffel, Jr.
Registration No. 43,489

HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019
Telephone: (650) 712-0340
Facsimile: (650) 712-0263